

REMARKS

Applicant has considered and studied the Office Action dated August 16, 2005. Claims 1-22 are pending. Claims 1-22 are rejected. Claims 3, 12 and 22 have been amended. No new matter has been introduced by the amendments to the claims.

§ 103 Rejections

Claims 1-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Montalbano (US 5,838,775) in view of Takase et al. ("Takase" U.S. Patent No. 5,612,959). Applicant respectfully disagrees with the Examiner's interpretation of Montalbano and Takase and respectfully traverses the rejection.

It is respectfully noted that the Federal Circuit has provided that an Examiner must establish a case of prima facie obviousness. Otherwise the rejection is incorrect and must be overturned. As the court stated in In re Rijkaert, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993):

"In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. 'A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.' If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned." (citations omitted.)

It is respectfully noted that the Examiner asserts, at paragraph 6 on page 2 of the Office action, that Montalbano discloses "a gateway system" and a "plurality of terminals" It is further respectfully noted that the Examiner asserts, at paragraph 6 on page 3 of the Office action, that Takase discloses "checking the status of a terminal ... before the data transmission step is performed" at "col. 7, line 57 - col. 8, line 12" and that "[o]ne of ordinary skill in the art ... would have found it obvious to perform a status check on terminals ...[and] to combine this step with the communications network disclosed by Montalbano."

With regard to independent claim 1, it is respectfully noted that the Examiner fails to identify any element of the Montalbano invention that is asserted as the recited information

server. Therefore, it is respectfully submitted that the Examiner has not identified any element of the Montalbano that “one of ordinary skill in the art” would modify by the teachings of Takase in order to suggest the information server recited in independent claim 1.

Notwithstanding the failure to assert any element of the Montalbano invention as analogous to the information server recited in claim 1, it is respectfully submitted that the “status check” disclosed by Takase would not have motivated one of ordinary skill in the art to modify the Montalbano invention to check the on-hook status of the terminal as recited in independent claim 1 nor to check or judge the call status of the plurality of terminals as recited by independent claims 10 and 19.

It is respectfully noted that the portion of Takase asserted by the Examiner discloses monitoring the “LANs or terminals connected to the network” to detect that the LAN “has failed” or a “failed LAN.” Col. 7, ll. 59-63 and col. 8, line 3. On the other hand, it is respectfully submitted that “one of ordinary skill in the art” would not interpret on-hook status or call status as a “failure condition” and, therefore, would **not** be motivated by the teachings of Takase to modify the Montalbano invention to check the on-hook status or judge the call status as recited in independent claims 1, 10 and 19.

It is respectfully noted that claims 3, 12 and 22 have been amended with this paper to recite that the stored information is displayed when an on-hook status is detected and voice communication-related information is displayed when an off-hook status is detected. Support for the amendments may be found in the specification as originally filed at page 8, ll. 4-13. It is respectfully submitted that neither Montalbano nor Takase discloses this element.

It is respectfully noted that the Examiner, at paragraphs 8 and 17 of the Office action, appears to assert that the “interface” disclosed in Montalbano is analogous to the information that is recited as stored in claims 3, 12 and 22. See Montalbano at col. 4, ll. 23-32 and 50-57. It is respectfully submitted that Montalbano fails to differentiate between the information displayed when the telephone is “on-hook” and the information displayed when the telephone is “off-hook,” but rather discloses only that the “interface” is displayed when the “user takes the telephone off hook,” with no disclosure of the information displayed when the telephone is “on hook.” Col. 4, ll. 50-57. Therefore, it is further respectfully submitted that Montalbano fails to disclose all the elements of claims 3, 12 and 22 as amended.

It is respectfully noted that Takase is directed to “a method of communication between a plurality of terminal equipment or communications networks.” Col. 1, ll. 5-9. It is respectfully submitted that Takase fails to disclose the display of any information and, therefore, does not cure the deficiencies of Montalbano with respect to the recited limitations in claims 3, 12 and 22.

In view of the aforementioned remarks, it is respectfully asserted that independent claims 1, 10 and 19 are allowable over the cited references. It is further respectfully asserted that claims 3, 12 and 22 are allowable over the cited references in view of the aforementioned remarks as well as their dependence from, respectively, claims 1, 10 and 19. Moreover, it is respectfully asserted that claims 2 and 4-9, which depend from claim 1, claims 11 and 13-18, which depend from claim 10, and claims 20 and 21, which depend from claim 19, also are allowable over the cited references.

CONCLUSION

No amendment made was related to the statutory requirements of patentability. No amendment made was for the purpose of narrowing the scope of any claim. Applicant respectfully submits that the application is in the condition for allowance.

The Examiner cited U.S. Pat. Nos. 6,119,142 to Kosaka, 6,643,291 to Yoshihara et al., 6,718,374 To Del Sordo et al. and 5,481,596 to Comerford as being made of record and not relied upon. Applicant believes that the cited references fail to disclose the invention as claimed either alone or in combination.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

Date: November 10, 2005

Respectfully submitted,

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